

BEFORE THE
BOARD OF ACCOUNTANCY
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

WILLIAM D. LINDBERG
1725 Monrovia Street, Suite C1
Costa Mesa, CA 92627

Certified Public Accountant
Certificate No. CPA 8593,

Respondent.

OAH NO. L-2002080500

CASE NO. 2002-20

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge ("ALJ"), Los Angeles Office of Administrative Hearings, at Santa Ana, California on March 25, 2003.

Deputy Attorney Terrence M. Mason represented complainant.

Respondent, William D. Lindberg personally appeared and represented himself.

Oral and documentary evidence was received and the matter was submitted.

FACTUAL FINDINGS

The ALJ makes the following Factual Findings:

1. Carol Sigmann filed the Accusation in her official capacity as the Executive Officer of the California Board of Accountancy ("the board").

2. On December 10, 1960, the board issued Certified Public Accountant's Certificate number CPA 8593, to respondent, William D. Lindberg. At all times relevant to the allegations in the accusation, respondent's certificate was, and currently is, in full force and effect.

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3. At all relevant times, Generally Accepted Accounting Principles ("GAAP") were, and still are, the conventions, rules and procedures that constitute the professional standards of the accounting profession. GAAP consist of statements issued by the American Institute of Certified Public Accountants ("AICPA") through successive groups it has established to promulgate accounting standards, including: the Financial Accounting Standards Board ("FASB"), which issues Statements of Financial Accounting Standards ("SFAS"), codified by SFAS number; the Accounting Principles Board ("APB"), predecessor to the FASB, which issued numbered Opinions; the Accounting Standards Division of AICPA, which issues Statements of Position ("SOP"); and the Investment Companies Special Committee of the AICPA, which issued a guide dealing with audits of investment companies.

4. At all relevant times, Generally Accepted Auditing Standards ("GAAS") were, and still are, the standards and principles for performing audits. GAAS are promulgated by the AICPA. GAAS include ten (10) broad standards classified as General Standards, Standards for Fieldwork, and Standards of Reporting.

5. At all relevant times, Statements of Auditing Standards ("SAS") were, and still are, periodic interpretations of the ten GAAS General Standards, which are issued by the Auditing Standards Board of the AICPA. SAS are codified by AU numbers.

Introduction

6. On September 5, 2001, the Enforcement Division of the board received a referral from the Report Quality Monitoring Committee ("the Committee") concerning respondent. The Report Quality Monitoring Committee periodically requests licentiates to submit the best examples they have of relatively current audit reports as part of the Committee's "report monitoring program". As part of this quality assurance program, the Committee asked respondent to submit a sample of a current audit. In response, respondent sent the Committee his audit of Advanced Refrigeration Technologies, Inc. ("ART") for the periods ending December 31, 1988, and 1999.

The ART audits respondent performed for 1988 and 1989 were found to be substandard. Accordingly, on December 6, 2000, the board notified respondent that based on the evaluation of his audits, he must complete 20 hours of continuing education focused on what information needed to be included in financial statement disclosures, and Securities and Exchange Commission ("SEC") reporting requirements. Respondent was given until June 8, 2001 to complete the continuing education requirements.

Respondent successfully completed the required continuing education and the board then requested that respondent again submit recent financial statements so the board could evaluate the success of the remedial education respondent was required to complete. In response, respondent submitted a set of financial statements, again for ART, for the periods ending December 31, 1999, and 2000. Again, the board found the audits/statements to be substandard. Since respondent's work product did not seem to improve after his completion of the board ordered, mandatory, continuing education, the Committee referred the matter to the Enforcement Division for investigation. The allegations of the accusation concern this "second" assessment of respondent's abilities. The Findings, concerning respondent's "second" submission of audit documents, are set forth below.

The Second Assessment of Respondent's Professional Competence

7. The professional, expert, assessment of respondent's audits and supporting documentation was performed by Maryellen Fleury, CPA, an Investigative CPA with the board. Tragically, Ms. Fleury died prior to the instant proceedings. Consequently, the working documents and report submitted to the board by respondent, and Ms. Fleury's evaluations of those audit documents were reviewed by the board's current Investigative CPA, Tina M. MacGregor, CPA, CFE. After reviewing all of the documents, Ms. MacGregor concluded that Ms. Fleury's assessments and conclusions concerning respondent's audit papers were accurate.

Both experts, Ms. MacGregor and Ms. Fleury, concluded that respondent failed to comply with professional standards, and that he was grossly negligent in generating the audit report, financial statements, and working papers, connected with the ART audit(s). The facts supporting their conclusions are set forth in Finding 8, below.

8. The ART audit report, the financial statements, and the work papers prepared by respondent fail to comply with professional standards that apply to the practice of public accountancy in the following respects:

a. The financial statements that respondent prepared as part of the audit fail to make the following disclosures: disclosures required by GAAP:

(1) The statements do not disclose the method under which patents are amortized or the accumulated patent amortization, as required by APB Opinion No. 17;

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(2) The statements do not make the following disclosures which are required by SFAS No. 7 in relation to development stage companies, like ART:

(a) A Cash-Flow statement showing sources and uses of cash posting for each period covered by the income statement or cumulative amounts from ART's inception;

(b) A statement of stockholder's equity, showing, from ART's inception, the date and number of shares of stock, warrants, rights, or other equity securities issued for cash and for other consideration;

(c) A statement of stockholder's equity, showing, from ART's inception, the dollar amounts assigned to the consideration received for shares of stock, warrants, rights, or other equity securities;

(d) A statement of stockholder's equity, showing, from ART's inception, the nature of noncash consideration and the basis for assigning amounts.

(3) The financial statements do not disclose that preparation of financial statements requires the use of management's estimates, as required by SOP No. 94-6.

(4) The financial statements do not make disclosures for accounting for income taxes, as required by SFAS No. 109.

b. The working papers respondent prepared in conjunction with the ART audit report fail to meet the following GAAS guidelines:

(1) The work papers fail to document that respondent's engagement was adequately planned, as required by AU sections 150.02, 311.05, and 339.05.

(2) The work papers fail to document that respondent obtained an understanding of internal controls sufficient to plan the audit and to determine the nature, timing, and extent of tests to be performed, as required by AU sections 319.61 and 339.05.

(3) The work papers fail to document respondent's consideration of audit risk and materiality in planning and designing the audit procedures, and in evaluating whether the financial statements, taken as a whole, are presented fairly in all material respects in conformity with GAAP, as required by AU sections 312 and 319.83.

(4) The work papers fail to document the performance of analytical procedures, as required by AU section 329.

(5) The work papers fail to document that respondent performed audit procedures that assessed the reasonableness of carrying values of receivables, inventory and patents, as required by AU sections 150.02, 326, and 339.05.

(6) The work papers do not document respondent's evaluation of subsequent events occurring after December 31, 2000, as required by AU section 560.

(7) The work papers fail to document that respondent evaluated ART's ability to continue as a going concern for a reasonable period of time, as required by AU section 341.

(8) The work papers fail to document communication of reportable conditions to ART's management, as required by AU section 325.09.

9. The deficiencies set forth in Finding 8 constitute extreme departures from professional standards for audit/financial statement disclosures.

Evidence in Mitigation

10. ART was a small company and respondent did not just audit ART, he worked with the company on a year-round basis. He knew the company so well and the other shareholders knew the company so well that respondent believed some of the normal statements and disclosures were not required. Respondent believed that everyone connected with ART already knew the information, therefore, the required written disclosures would have merely been redundant. Furthermore, according to respondent, he audits by "exception". He only notes things that do not "look right" or "smell right", and then he takes the necessary steps to ensure the business takes corrective action.

11. There were, and are, no allegations that respondent made any material misstatements in his audits. Respondent was never directed to re-adjust the ART statements. In fact, respondent resigned as ART's auditor in December of 2002 due to ART's failure to pay him for his 2001 audit. After respondent left ART, ART brought in an independent auditor. The new auditor received respondent's working papers and accepted the files. The new auditor never asked respondent for any clarification.

12. Respondent has been performing audits for 45 years, since 1958, and has no record of any consumer/business complaints or any prior disciplinary action(s).

13. Respondent is now doing consulting work and performs very few audits. Respondent "loves helping people" and testified that many small start-up companies can not afford the necessary audits, which sometimes cost as much as \$25,000.00.

14. Respondent asserts that he was "not negligent in doing the audit [for ART] and not negligent in his opinion."

Costs

15. The reasonable costs for investigation of this matter against respondent, as set forth in Exhibit 3, totals \$3,954.30. The amount set forth in Exhibit 4, for the costs of prosecution total \$5,070.00. However, since this case was transferred from one Deputy Attorney General to another, there is obviously some duplication of costs, since the newly assigned Deputy Attorney General had to familiarize himself with the case from scratch. Consequently, the ALJ deducted the amount billed by the originally assigned Deputy Attorney General (14 hours at the rate of \$120.00/Hr.) and the ALJ finds the balance of the costs, \$3,390.00, to be reasonable; accordingly, the reasonable costs of investigation and prosecution of the instant action against respondent totals \$7,344.30.

LEGAL CONCLUSIONS

The Administrative Law Judge makes the following Legal Conclusion

1. Cause exists for discipline pursuant to Business and Professions Code ("Code") section 5100, subdivision (f) because, as set forth in Findings 7 and 8, respondent willfully violated Code section 5062 and Title 16, California Code of Regulations ("Regulations") section 58, by issuing a report that did not comply with all applicable professional standards.

2. Cause exists for discipline pursuant to Code section 5100, subdivision (c) because, as set forth in Findings 7, 8, and 9, respondent's committed gross negligence in the practice of accountancy.

Costs

3. As set forth in Finding 15, the reasonable costs of investigation and prosecution of the instant proceedings, recoverable by the board pursuant to Code section 5107, subdivision (a), totals \$7,344.30.

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The Appropriate Discipline

4. Here is the situation: Respondent originally submitted audit documents, including financial statements and working papers to the Committee in 2001. The Committee found that the documents were deficient, consequently, the board ordered respondent to take remedial classes. Respondent did so. He then submitted a second set of audit documents, the documents that form the basis for the findings of fact and conclusions of law in the instant proceedings. There was no improvement. In fact, during the hearing respondent steadfastly denied that his audit documents, financial statements and working papers were deficient. He continues to assert that he knows what he is doing and that he was not negligent in his preparation of the ART audit documents. In view of respondent's attitude, ordering further remedial classes/continuing education, is deemed to be a futile act. Respondent just does not seem to get it. It is very important that the audit documents, including the financial statements and working papers "stand alone". A person without accounting expertise must be able to interpret the audit documents; otherwise, the business' managers, partners, and/or stockholders would not be able to make intelligent decisions concerning their company. In view of this, even though there was no actual harm done to ART, the only way to adequately protect the consumers of the State of California from respondent's seemingly cavalier attitude toward the board's efforts to rehabilitate/reeducate him, seems to be outright revocation.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

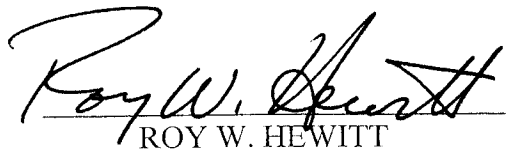
Respondent, William D. Lindberg's Certified Public Accountant Certificate, Certificate number CPA 8593, and all rights appurtenant thereto, are revoked.

IT IS FURTHER ORDERED that:

Respondent pay the board cost recovery in the amount of, \$7,344.30, pursuant to Business and Professions Code section 5107, subdivision (a).

Dated: April 22, 20013.

5/22/03


ROY W. HEWITT

Administrative Law Judge
Office of Administrative Hearings

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

WILLIAM D. LINDBERG
1725 Monrovia Street, Suite C1
Costa Mesa, CA 92627

Respondent

OAH NO. L-2002080500

CASE NO. AC-2002-20

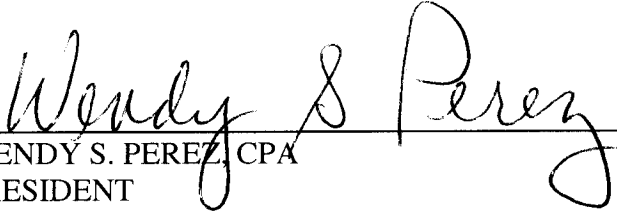
DECISION ON RECONSIDERATION

The California Board of Accountancy having issued its Order Granting Reconsideration on July 28, 2003, and having received and considered written submissions from Respondent William D. Lindberg and from Deputy Attorney General Terrence M. Mason, the California Board of Accountancy hereby makes its Decision On Reconsideration as follows:

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the California Board of Accountancy as the Decision in the above-entitled matter.

This Decision shall become effective on November 8, 2003.

IT IS SO ORDERED this 9th day of October, 2003.



WENDY S. PEREZ, CPA
PRESIDENT
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 TIMOTHY L. NEWLOVE, State Bar No. 73428
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-3034
Facsimile: (619) 645-2061
7 Attorneys for Complainant

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9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2002-20

13 WILLIAM D. LINDBERG
1725 Monrovia Street, Suite C1
14 Costa Mesa, California 92627

A C C U S A T I O N

15 Certified Public Accountant
Certificate No. CPA 8593

16 Respondent.
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19 The Complainant, Carol Sigmann, for cause of accusation against WILLIAM D.
20 LINDBERG, alleges:

21 **PARTIES**

22 1. The Complainant, Carol Sigmann, is the Executive Officer of the
23 California Board of Accountancy (hereinafter the "Board") and makes this Accusation solely in
24 her official capacity.

25 2. On or about December 10, 1960, the Board issued to respondent
26 WILLIAM D. LINDBERG (hereinafter respondent "LINDBERG") a certificate, No. 8593, of
27 Certified Public Accountant, to practice accountancy in the State of California pursuant to the
28 Accountancy Act, Division 3, Chapter 1, § 5000 et seq. of the California Business and

1 Professions Code. At all times material herein, respondent's certificate was in full force and
2 effect, and will expire on June 30, 2002, unless renewed.

3 JURISDICTION

4 3. Business and Professions Code § 5100 authorizes the Board to bring an
5 administrative disciplinary proceeding against a license holder under the Accountancy Act for
6 unprofessional conduct.

7 4. Business and Professions Code § 118(b) provides that the expiration of a
8 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
9 period within which the license may be renewed, restored, reissued or reinstated.

10 PROFESSIONAL STANDARDS

11 5. At all times material herein, Generally Accepted Accounting Principles
12 ("GAAP") were and are the conventions, rules and procedures that constitute the professional
13 standards of the accounting profession. The GAAP are statements issued by the American
14 Institute of Certified Public Accountants (AICPA") through successive groups it has established
15 to promulgate accounting standards, including the Financial Accounting Standards Board
16 ("FASB") which issues Statements of Financial Accounting Standards ("SFAS"), codified by
17 SFAS number; the Accounting Principles Board ("APB"), predecessor to the FASB, which
18 issued numbered Opinions; the Accounting Standards Division of AICPA which issues
19 Statements of Position ("SOP"); and the Investment Companies Special Committee of the
20 AICPA which issued a guide dealing with audits of investment companies.

21 6. At all times material herein, Generally Accepted Accounting Principles
22 ("GAAS") were and are standards and principles for performing audits. GAAS are promulgated
23 by the AICPA. GAAS include ten (10) broad standards classified as General Standards,
24 Standards for Fieldwork and Standards of Reporting. At all times material herein, Statements of
25 Auditing Standards ("SAS") were and are periodic interpretations of the ten GAAS general
26 principles issued by the Auditing Standards Board of the AICPA. SAS are codified by AU
27 numbers.

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FACTS

7. Respondent LINDBERG performed an audit of the financial statements of Advanced Refrigeration Technologies, Inc., ("Advanced Refrigeration") for the years ended December 31, 1999 and 2000. On February 2, 2001, respondent issued an audit report concerning this audit. In preparing the Advanced Refrigeration Audit Report, respondent prepared work papers to support the audit.

8. The Advanced Refrigeration Audit Report, the financial statements that accompany said report, and the work papers prepared in conjunction with said report fail to comply with professional standards that apply to the practice of public accountancy in the following respects:

a. The audited financial statements that accompany the Advanced Refrigeration Audit Report fail to make the following disclosures required by GAAP:

(1) The financial statements do not disclose the method under which patents are amortized or the accumulated patent amortization, as required by APB Opinion No. 17.

(2) The financial statements do not make disclosures applicable to development stage companies, as required in SFAS No. 7, including the following disclosures:

(a) An income statement showing amounts of revenue and expenses for each period covered by the income statement and, in addition, cumulative amounts from the enterprise's inception.

(b) A statement of stockholder's equity, showing from the enterprise's inception, the date and number of shares of stock, warrants, rights, or other equity securities issued for cash and for other consideration.

(c) A statement of stockholder's equity, showing from the enterprise's inception, the dollar amounts assigned to the

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1 consideration received for shares of stock, warrants, rights, or other
2 equity securities.

3 (d) A statement of stockholders' equity, showing from
4 the enterprise's inception, the nature of noncash consideration and
5 the basis for assigning amounts.

6 (3) The financial statements do not disclose that preparation of
7 financial statements requires the use of management's estimates, as required by
8 SOP No. 94-6.

9 (4) The financial statements do not make disclosures for accounting
10 for income taxes, as required by SFAS No. 109.

11 b. The work papers prepared in conjunction with the Advanced Refrigeration
12 Audit Report fail to meet the following GAAS guidelines:

13 (1) The work papers fail to document that the engagement was
14 adequately planned, as required by AU §§ 150.02, 311.05 and 339.05.

15 (2) The work papers fail to document that respondent obtained an
16 understanding of internal control sufficient to plan the audit and to determine the
17 nature, timing, and extent of tests to be performed, as required by AU §§ 319.61
18 and 339.05.

19 (3) The work papers fail to document consideration of audit risk and
20 materiality in planning and designing audit procedures, and in evaluating whether
21 the financial statements, taken as a whole, are presented fairly in all material
22 respects in conformity with GAAP, as required by AU §§ 312 and 319.83.

23 (4) The work papers fail to document the performance of analytical
24 procedures, as required by AU § 329.

25 (5) The work papers fail to document that respondent performed audit
26 procedures that assessed the reasonableness of carrying values of receivables,
27 inventory and patents, as required by AU §§ 150.02, 326 and 339.05.

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1 (6) The work papers do not document respondent's evaluation of
2 subsequent events occurring after December 31, 2000, as required by AU § 560.

3 (7) The work papers fail to document that respondent evaluated the
4 entity's ability to continue as a going concern for a reasonable period of time, as
5 required by AU § 341.

6 (8) The work papers fail to document communication of reportable
7 conditions to the client's management, as required by AU § 325.09.

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9 FIRST CAUSE OF ACCUSATION

10 FAILURE TO COMPLY WITH
11 PROFESSIONAL STANDARDS

12 9. Complainant incorporates herein by this reference the preamble and each
13 of the allegations set forth in paragraphs 1 through 8 hereinabove.

14 10. Business and Professions Code § 5100(f) provides that unprofessional
15 conduct under the Accountancy Act includes a wilful violation of the Act or any regulation
16 promulgated by the Board.

17 11. Business and Professions Code § 5062 provides that a licensee shall issue
18 a report which conforms to professional standards upon completion of a compilation, review or
19 audit of financial statements.

20 12. Section 58 of Title 16 of the California Code of Regulations (hereinafter the
21 "Board Regulations") provides that licensees engaged in the practice of public accountancy shall
22 comply with all applicable professional standards, including, but not limited to, generally
23 accepted accounting principles and generally accepted auditing standards.

24 13. The certificate of Certified Public Accountant held by respondent
25 LINDBERG is subject to discipline under Business and Professions Code § 5100(f), for a wilful
26 violation of Business and Professions Code § 5062 and Board Regulation 58, in that respondent
27 deviated from professional standards in the Advanced Refrigeration Audit Report and work
28 papers, as described in paragraphs 8 through 8b hereinabove.

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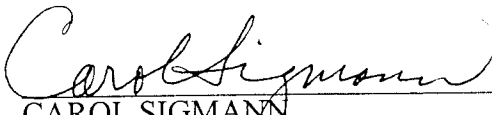
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1 WHEREFORE, the Complainant requests that a hearing be held on the matters
2 herein alleged, and that following said hearing, the Board issue a decision:

- 3 1. Revoking, suspending or otherwise imposing discipline upon Certified
4 Public Accountant Certificate Number 8593, issued to WILLIAM D. LINDBERG.
5 2. Awarding the Board costs as provided by statute; and
6 3. Taking such other further action as may be deemed proper.
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8 DATED: June 21, 2002
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11 CAROL SIGMANN
12 Executive Officer
13 California Board of Accountancy
14 Department of Consumer Affairs
15 State of California

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27 Complainant
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